



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 WYNKOOP STREET

DENVER, CO 80202

Phone 800-227-8917

<http://www.epa.gov/region08>

**AUG 19 2013**

Ref: 8EPR-N

Mark Mackiewicz, PMP  
National Project Manager  
Bureau of Land Management  
Price Field Office  
125 South 600 West  
Price, UT 84501

Re: Draft Supplemental Environmental Impact  
Statement for the Ruby Pipeline Project  
CEQ # 20130198

Dear Mr. Mackiewicz:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, et. seq., and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Draft Supplemental Environmental Impact Statement (Draft SEIS) prepared by the Bureau of Land Management (BLM) in response to a ruling from the Ninth Circuit Court of Appeals on the cumulative loss of sagebrush steppe vegetation and habitat on the interstate Ruby pipeline and associated facilities located in Wyoming, Utah, Nevada, and Oregon.

The pipeline and associated facilities were built and are operated by Ruby Pipeline, L.L.C. (Ruby) to add significant natural gas transportation capacity to meet growing demands for natural gas in the Pacific Northwest. The project involved the construction of 675 miles of 42 - inch diameter pipeline and associated aboveground facilities. Construction of the proposed project has disturbed 17,000 acres of land including 9,225 acres of sagebrush steppe vegetation and greater sage grouse habitat. This Draft SEIS informs the BLM decision whether to reissue the BLM right-of-way (ROW) granted to Ruby and whether specific terms and conditions for additional post-construction mitigation is warranted.

The Draft SEIS considers past actions that have contributed to sagebrush steppe habitat disturbance. Past actions have been aggregated into general categories to describe the historical impact on the existing environment. These categories include conversion of public lands to cropland and mining and energy development, livestock grazing, introduction of non-native, invasive plant species, changes in management of wildfire cycles, and the natural encroachment of juniper-pinyon forest into the sagebrush steppe ecosystem. The Draft SEIS concludes on page 27 that the cumulative impacts of these past actions have been significant enough to lose 11.5 million acres (37 %) of sagebrush steppe within the cumulative impact area that was analyzed.



The Draft SEIS analysis of present and reasonably foreseeable future actions has been substantially extended from the short list of eight projects disclosed in Table 4.13-1 in the Final EIS. New information available to BLM was used to update and expand this list to over fifty actions. Draft SEIS Table 1 is the resulting disclosure of present and reasonably foreseeable future actions. Cumulative impact acreages for four general categories of actions have been analyzed: (1) energy projects, (2) mining and exploration, (3) livestock grazing and wild horse sanctuaries, and (4) habitat restoration and improvement projects. The Draft SEIS discloses that the Ruby Project Cooperative Conservation Agreement requires Ruby to fund \$22.9 million for some of the habitat conservation and improvement projects. These projects would benefit more than 90,300 acres of sagebrush steppe according to the Draft SEIS. The EPA recommends BLM consider increasing the 10:1 offset ratio of habitat restoration acreage compared to Ruby project disturbance acreage in light of the scientific literature produced by both the BLM national technical team and other reputable ecosystem scientists. The literature acknowledges the long timeframes required to reestablish the vegetation characteristics of priority habitat for restoration projects in this arid environment. It also documents a considerable amount of uncertainty in the appropriate offset ratios to replace the loss of ecosystem support services and the results of previous habitat equivalency analyses used in the Ruby conservation measures plan.

EPA encourages BLM to consider some of the more recent scientific literature developed by other Department of Interior agencies seeking to inform the regional implementation of the national greater sage grouse planning strategy that are not cited in the references to this Draft SEIS. In particular, USGS Open File Report 2013-1098, Summary of Science, Activities, Programs, and Policies That Influence the Rangeland Conservation of Greater Sage-Grouse (*Centrocercus urophasianus*)<sup>1</sup>, recommends that consistent planning criteria for locating energy corridors, facilities, and infrastructure be used to realize minimal impacts to intact sagebrush communities and associated sage-grouse populations. Most significantly for the Ruby project, this Report emphasizes the importance of monitoring the effectiveness of restoration projects to insure that the amount of treated and restored lands have provided the required ecosystem service values before additional sagebrush habitat is disturbed.

The Draft SEIS acknowledges BLM's determination that the proposed project will not adversely impact federally-listed species, adversely modify designated critical habitat, threaten the viability of BLM, USFS, or state-listed species, nor produce any direct or indirect effects that would be contrary to a cooperating agency's conservation needs. The Draft SEIS concludes that there are no cumulative impacts beyond those already discussed in the Final EIS, and therefore no additional mitigation is warranted. We recommend that the BLM reconsider its conclusion regarding the need for mitigation in light of the charter of the BLM National Greater Sage Grouse Planning Strategy to develop new or revised regulatory mechanisms to conserve and restore the greater sage-grouse and its habitat on BLM-administered lands on a range-wide basis over the long-term. Recent scientific literature from the National Technical Team<sup>2</sup> is also available to help inform project planning decisions.

Finally, the EPA recommends that the BLM include in the Final EIS a discussion regarding BLM's Instruction Memorandum No. 2012-043 that requires assessment of the impacts of the ongoing use of an existing ROW to Greater Sage-Grouse habitat and to minimize such impacts to the extent allowed by law when renewing or amending the ROW. The provisions of this Instruction Memorandum will be

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U.S Geological Survey, <sup>1</sup>, Summary of Science, Activities, Programs, and Policies That Influence the Rangeland Conservation of Greater Sage-Grouse (*Centrocercus urophasianus*) Manier, D.J.,1\* D.J.A. Wood,2 Z.H. Bowen,3\* R.M. Donovan,1 M.J. Holloran,4 L.M.Juliusson,5 K.S. Mayne,5S.J. Oyler-McCance,3 F.R. Quamen,2 D.J. Saher,6 A.J. Titolo5

<sup>2</sup> Report on National Greater Sage-Grouse Conservation Measures, Sage-grouse National Technical Team, December 21, 2011

important in helping to ensure protection of important Greater Sage-Grouse habitat.

Consistent with Section 309 of the Clean Air Act, it is the EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. In accordance with our policies and procedures for reviews under NEPA and Section 309 of the Clean Air Act, the EPA is rating this Draft SEIS as "Lack of Concern" (LO). The "LO" rating indicates that our review has not identified any potential environmental impacts requiring substantive changes to the Draft SEIS, however the review has pointed out reasons for consideration of additional mitigation measures. Our review suggests that the addition of clarifying language or information would make the Final SEIS more complete. If you have any questions regarding our comments, please contact me at 303-312-6704 or James Hanley of my staff at 303-312-6725.

Sincerely,

  
for

Suzanne J. Bohan, Director  
NEPA Compliance and Review Program  
Office of Ecosystems Protection and Remediation





## U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

### Definitions and Follow-Up Action\*

#### Environmental Impact of the Action

**LO - - Lack of Objections:** The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

**EC - - Environmental Concerns:** The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

**EO - - Environmental Objections:** The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

**EU - - Environmentally Unsatisfactory:** The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

#### Adequacy of the Impact Statement

**Category 1 - - Adequate:** EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**Category 2 - - Insufficient Information:** The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

**Category 3 - - Inadequate:** EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

